

Objection to the Denial of Excess Liability Trust Fund Claim No. 200710507/FID No. 13321,  
Former B & D Rental Center, Inc. II, Indianapolis, Marion County, Indiana.  
2008 OEA 31 (08-F-J-4077)

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**OFFICIAL SHORT CITATION NAME:** When referring to 2008 OEA 31 cite this case as  
*B & D Rental Center, 2008 OEA 31.*

**TOPICS:**

dismissal

AOPA

late

Petition for Review

timely

IC 4-21.5-3-2

IC 4-21.5-3-7

**PRESIDING JUDGE:**

Gibbs

**PARTY REPRESENTATIVES:**

Petitioner: Jennifer A. Bush, Bruce Bultman

IDEM: Steve Griffin, Esq.

**ORDER ISSUED:**

March 6, 2008

**INDEX CATEGORY:**

Land

**FURTHER CASE ACTIVITY:**

[none]

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5. IC 4-21.5-3-2(e) provides that three (3) days shall be added to this deadline if service is by mail.
6. The Petitioner had eighteen (18) days from February 6, 2008, the date of the notice and the presumed date of mailing, until February 24, 2008, to file the Petition for Review.
7. IC 4-21.5-3-2 provides in pertinent part:
  - (a) In computing any period of time under this article, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is:
    - (1) a Saturday;
    - (2) a Sunday;
    - (3) a legal holiday under a state statute; or
    - (4) a day that the office in which the act is to be done is closed during regular business hours.
8. Pursuant to IC 4-21.5-3-2, because February 24, 2008 is a Sunday, the Petition for Review should have been filed no later than February 25, 2008.
9. Even if the response filed with IDEM could be considered a Petition for Review, it was not filed in a timely manner.
10. The Petition for Review was not filed until February 29, 2008 and was not timely filed in this matter.

**Final Order**

**IT IS THEREFORE ORDERED** that the Petition for Review filed by Petitioner is hereby **DISMISSED**.

You are hereby further notified that pursuant to provisions of IC 4-21.5-7.5, the Office of Environmental Adjudication serves as the Ultimate Authority in the administrative review of decisions of the Commissioner of the Indiana Department of Environmental Management. This is a Final Order subject to Judicial Review consistent with applicable provisions of IC 4-21.5. Pursuant to IC 4-21.5-5-5, a Petition for Judicial Review of this Final Order is timely only if it is filed with a civil court of competent jurisdiction within thirty (30) days after the date this notice is served.

**IT IS SO ORDERED this 6th day of March, 2008 in Indianapolis, IN.**

Hon. Catherine Gibbs  
Environmental Law Judge